

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IN RE BEXTRA AND CELEBREX MARKETING,  
SALES PRACTICE, AND PRODUCT LIABILITY  
LITIGATION

CASE NO. MDL No. 1699

**STIPULATION AND ~~(PROPOSED)~~  
ORDER VACATING DISMISSAL  
WITH PREJUDICE**

This Document Relates to:

Junior Counts v. Pfizer Inc., et al., 06-2081 CRB

WHEREAS, On August 28, 2009 the Court entered an Order to Show Cause requiring plaintiff to notify the Court in writing on or before September 25, 2009 of the reasons why his case should not be dismissed; and

WHEREAS, Plaintiff sent a complete Docket Data Sheet ("DDS") to the Court by Express Mail on September 15, 2009, but the Docket Data Sheet inadvertently was not posted on the docket such that Pfizer Inc could be aware that plaintiff had reached out to the Court or satisfied his DDS obligations; and

WHEREAS, On September 25, 2009, the Court entered an order dismissing plaintiff's case with prejudice for lack of prosecution;

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1 THEREFORE, PLAINTIFF AND DEFENDANTS HEREBY STIPULATE THAT,  
2 pursuant to Federal Rule of Civil Procedure 41(a), the Court should vacate the dismissal of this  
3 action with prejudice and reinstate this case to the Court's docket.

4  
5 DATED: 10/17, 2009

By: Junior R. Counts  
Junior R. Counts  
21594 Maries Road 444  
Vichy, Missouri 65580  
Telephone: 573.299.9945

8 PLAINTIFF *Pro se*

9  
10 DATED: 10/20, 2009

DLA PIPER LLP (US)

11 By: /s/ Loren Brown  
Loren H. Brown  
1251 Avenue of the Americas  
New York, New York 10020  
Telephone: 212.335.4500  
Facsimile: 212.335.4501

14 ATTORNEYS FOR DEFENDANTS

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17 **PURSUANT TO THE PARTIES' STIPULATION, IT IS SO ORDERED.**

18  
19 Dated: Oct. 29, 2009

20 Hon. Charles R. Breyer  
United States District Court

